

COPY

2017-086102
SF-J. we w

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
JAMES BENBOW,

Plaintiff,

-against- Civ. No.: 17-CV-6457 (EK) (LB)

CITY OF NEW YORK; POLICE OFFICER BRIAN W.
FEELEY; POLICE OFFICER MATTHEW J. ROSIELLO;
POLICE OFFICER KENNETH L. ANDERSON; SERGEANT
WILLIAM A. DAIB; POLICE OFFICER SHANIEL J.
MITCHELL; and POLICE OFFICER STEPHEN J. MINUCCI,

Defendants.
----- X

VIDEOCONFERENCE VIA ZOOM
Conducted by:
LEX REPORTING SERVICE
160 Broadway
New York, New York

November 19, 2020
2:05 p.m.

DEPOSITION of **DETECTIVE RUBEN CESPEDES**,
a Non-Party Witness in the above-entitled
action, held remotely via Zoom videoconference,
pursuant to Order, taken before Tania C.
Pedrosa, a shorthand reporter and Notary Public
within and for the State of New York.

LEX#160688-B



REPORTING SERVICE, INC.

PROFESSIONAL REPORTING SINCE 1980

TOLL FREE 800.608.6085

A p p e a r a n c e s :

THE ABOUSHI LAW FIRM, PLLC
Attorneys for Plaintiff
1441 Broadway, Fifth Floor
New York, New York 10018
BY: AYMEN A. ABOUSHI, ESQ.

JAMES E. JOHNSON, ESQ.
Corporation Counsel
Attorney for Defendants
100 Church Street
New York, New York 10007
BY: JOSHUA A. WEINER, ESQ.
FILE No.: 2017-066702

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED
by and between the attorneys for the
respective parties herein, that filing,
sealing and certification be and the
same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the
form of the question shall be reserved
to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be signed
and sworn to before any officer
authorized to administer an oath, with
the same force and effect as if signed
and sworn to before the Court.

THE REPORTER: This deposition is being conducted via Zoom videoconferencing. All parties present are appearing remotely and are confirming that they can hear and see through the video without any technical issues.

Would counsel and the witness please confirm.

THE WITNESS: Yes.

MR. WEINER: Confirmed.

MR. ABOUSHI: We can confirm for now given what happened earlier. It might be touch and go.

THE REPORTER: Before I swear in the witness, I will ask counsel to stipulate on the record that due to the national emergency pandemic, the court reporter may swear in the deponent even though they are not in the physical presence of the

5

deponent, and that there is no objection to that at this time, nor will there be an objection to it at a future date.

MR. WEINER: Confirmed.

MR. ABOUSHI: Yes, agreed.

THE REPORTER: And, Counsel, can you represent that to the best of your knowledge and belief, the witness appearing today via videoconference is indeed Officer Cespedes?

MR. WEINER: Yeah.

Detective Ruben Cespedes is the -- is the witness today to the best of my knowledge.

R U B E N C E S P E D E S, the witness herein via videoconference, having first been duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. ABOUSHI:

Q State your name for the record,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

R. Cespedes

52

first spoke to them in regards --

Q Okay.

A -- to the initial...

Q Okay. Were you working on the night of the incident?

A I was actually leaving work.

Q Okay. And what was your tour of duty that day?

A I don't remember, sir.

Q Okay. Did you have a regular tour of duty when you were a FIO?

A You -- yeah. You kind of went back and forth depending on what you were doing. So some days you worked late and some days you did -- some days you did 11:00 to 7:00, some days 12:00 to 8:00. It depended on the day -- what you were doing that day.

Q And you testified that that -- on that day you were leaving work?

A Yes.

Q Okay. And what happened when you were leaving work?

A I received a phone call from a particular person by the name of Jason

R. Cespedes

53

Marshall.

Q And how did you know Jason Marshall?

A I knew him from the precinct. He was -- at the time he was an auxiliary at the precinct.

Q Okay. And did you give him your phone number?

A Yeah. I know him. I know him, yeah.

Q How do you know him?

A Because I said he was an auxiliary at the time here and, like I said, I know him from just a regular conversation, you know.

Q So you know him from work or you know him from outside of work or something else?

A Kind of both things. Because, like I said, I was an auxiliary myself so -- prior to becoming a police officer so, yeah, I -- I -- you know, I -- I would say I know him.

Q Okay. And did you hang out with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

R. Cespedes

90

like, whether I took it and put it into my phone or he sent it to me or I sent it to him, I don't --

Q Prior to the night that Mr. Benbow was shot, did you communicate with Mr. Marshall over the phone or through text messages?

MR. WEINER: Objection.

A I don't recall.

Q So he calls you as you're leaving work, correct? That's your testimony?

A Yes.

Q And what does he say? Do you remember?

A He said he was -- that a guy tried to get into the club that he was working at with a gun and he turned him away or something like that.

Q Okay. Did he say anything else?

A That's as much as I could remember right now.

Q What, if anything, happened after that conversation? What did you do?

A Say again.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

R. Cespedes

91

Q What did you do after that conversation? Was that it? I mean, he said someone tried to get in the club with a gun and turned them away. He hung up? Is that what happened?

A I told him I'll call him back.

Q Okay. What did you do next?

A I called my boss, Sergeant Jones.

Q And what did you tell him?

A I told him basically what it was, you know, what Jason told me. And he told me to reach out to Sergeant Diab.

Q Did you do that?

A For some reason I wasn't able to get in contact with Sergeant Diab but I spoke to Mitchell who was on Diab's team and basically Mitchell was with Diab.

Q How did you get ahold of Mitchell?

A I called Mitchell.

Q How did you get his number?

A I've had -- I have Mitchell's number. I was a FIO.

Q Just within the context of your

R. Cespedes

92

duty as the FIO?

A Yeah. You have the guys that work anti-crime who deals with these -- you have their numbers.

Q Okay. And so you called Mitchell and told him what?

A I don't remember exactly my words to Mitchell but I do remember telling him, "Do you mind if I gave your number to Jason?"

Q And what did he say?

A He says okay.

Q All right. And what did you do after your phone call with Mitchell?

A I -- I sent Jason Mitchell's number to call him.

Q Okay.

A Either I sent it -- I don't remember if I sent it via text message or I called Jason and told him. But either way, I relayed the message to Jason to get in contact with Mitchell.

Q And were you using a work-issued phone?

A No. My personal phone.